

REMARKS

Claims 20-26 and 31 stand rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) over Buettner-Janz et al. ('766). Claim 20 has been amended to more positively recite that the cavity formed between an ADR component and a vertebral body is filled with cement through a pass following placement of the component. The Examiner argues that Buettner-Janz discloses "a component forming a cavity (at 8) between the component and one of their vertebral endplates; and a path (the channels between the 3s) is 'fully capable' of filling the cavity with cement," citing column 5, lines 28-30. First of all, the space between the "3s" is not a path at all, but rather, is simply a spacing between teeth which go the way when the component is pressed into a vertebral body. The Examiner's reference to column 5, lines 28-30 discloses that "the cavity below the plane guide rim 2 is filled with a disc 8 made of alloplastic material. It is also possible to fill this cavity with bone cement or to use a solid center portion from the outset." This doesn't mean that any path is created to fill any void *in-situ*. It simply states that alternate materials may be used in advance of installation to take up a certain space.

Although claims 21 and 22 purportedly stand rejected over Buettner-Janz, the Examiner makes no substantive arguments whatsoever in support of the rejection. Accordingly, Applicant will assume that these claims are allowable as well.

With regard to claim 31, the Examiner references Figure 10 or 11, and also makes mention of "the channels between the 3s." However, there are no 3s in Figures 10 or 11. The Examiner also states that these "paths" are "fully capable of having cement injected between them . . ." However, since the Examiner has not given any description or example of how this would be carried out, Applicant respectfully requests how the "space" between "3s" could somehow have cement injected between them.

Claims 20-26, 29 and 31 stand rejected under 35 U.S.C. §103(a) over Buettner-Janz in view of Masini ('891). The Examiner concedes that Buettner-Janz is "silent on any instruments for placing cement, including an instrument for pressurizing the cement following introduction." Simply because Masini discloses "another prosthetic system for a hip replacement," the Examiner concludes that it would have been obvious to modify the prosthetic [sic] of Buettner-

Janz to include the injection system as taught by Masini in order to fill and seal space between prosthetic and bone with the cement. Such a modification amounts to mere substitution of one functionally equivalent cement delivery system for another within the art of prosthetics." Applicant vigorously disagrees. First, there is no teaching or suggestion whatsoever from the prior art to use any kind of cement pressurization system in Buettner-Janz. Based on this alone, such a "modification" does not amount to a "mere substitution," but rather, amounts to hindsight reasoning on the part of the Examiner. Additionally, although the Examiner gives an omnibus rejection, naming claims 20-26, 29 and 31, they are not dealt with on an individual basis, but are rather lumped together, some of which are not addressed at all. If the Examiner would kindly state the specific grounds for rejection of each one of the claims in this group, Applicant could more adequately address those rejections.

Based on the foregoing amendments and comments, Applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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